

Application No. 10/669,285  
Amendment dated September 21, 2005  
Reply to Office Action of June 23, 2005

Docket No. 1232-5165

### REMARKS

Applicants respectfully request reconsideration of this application in view of the foregoing amendment and following remarks.

#### Status of the Claims

Claims 1-4 and 7-12 are pending in this application. Claims 1 and 10 are independent. All of the pending claims stand rejected.

By this amendment, claims 1, 10, 11 and 12 are amended. No new matter has been added by this amendment.

#### Rejection under 35 U.S.C. §102

Claims 1-4 and 7-12 have been repeatedly rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,081,614 to Yamada et al. ("Yamada").

Yamada discloses a surface position detecting method in which a surface position detecting system performs surface position detection sequentially at a plurality of detection points disposed within a region. A portion of Yamada describes that:

Then, for measurement of the surface shape (plural surface positions) of an exposure region of a chip, at step 103 as shown in FIG. 3, a pre-scan measurement is performed to plural sample shots as depicted by hatching (i.e., surface position at plural locations in respective exposure regions are measured while actually scanning the wafer). That is, at plural points on the wafer, the surface state (focus measurement data at multiple points) is measured through a scan. (col. 8, lines 23-31 of Yamada)

It appears that Yamada's measurement step as shown in, for example, Fig. 7, measures the position of a plurality of different locations within the wafer as shown in Fig. 3.

Yamada, however, fails to show or suggest the inventive features of the present application. For example, claim 1 recites, *inter alia*, a first process that processes an image

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signal obtained by the sensor with respect to each of a plurality of parameter values, and a second process that processes a signal obtained by the first process to obtain a feature value with respect to each of the plurality of parameter values. The method of claim 1 then determines a parameter value and reference value based on the feature value, and detects a position of the mark using the determined parameter value and reference value. Independent claim 10 recites similar features to claim 1 in an apparatus claim.

As Applicants understand it, there is nothing in Yamada that teaches the inventive aspects of claims 1 and 10 as discussed above. Applicants believe that Yamada, disclosing a measurement method at a plurality of positions, fails to show or suggest the inventive aspect of claims 1 and 10 as discussed above.

Reconsideration and withdrawal of the rejection of claims 1 and 10 under 35 U.S.C. §102(b) is respectfully requested.

Applicants have not individually addressed the rejections of the dependent claims because Applicants submit that the independent claims from which they respectively depend are in condition for allowance as set forth above. Applicants however reserve the right to address such rejections of the dependent claims should such be necessary.

Applicants believe that the application as amended is in condition for allowance and such action is respectfully requested.

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**AUTHORIZATION**

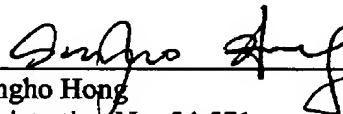
No petitions or additional fees are believed due for this amendment and/or any accompanying submissions. However, to the extent that any additional fees and/or petition is required, including a petition for extension of time, Applicants hereby petition the Commissioner to grant such petition, and hereby authorizes the Commissioner to charge any additional fees, including any fees which may be required for such petition, or credit any overpayment to Deposit Account No. 13-4500 (Order No. 1232-5165). A DUPLICATE COPY OF THIS SHEET IS ENCLOSED.

An early and favorable examination on the merits is respectfully requested.

Respectfully submitted,  
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Dated: September 21, 2005

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**AUTHORIZATION**

No petitions or additional fees are believed due for this amendment and/or any accompanying submissions. However, to the extent that any additional fees and/or petition is required, including a petition for extension of time, Applicants hereby petition the Commissioner to grant such petition, and hereby authorizes the Commissioner to charge any additional fees, including any fees which may be required for such petition, or credit any overpayment to Deposit Account No. 13-4500 (Order No. 1232-5165). A DUPLICATE COPY OF THIS SHEET IS ENCLOSED.

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